

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the Los Angeles to Pasadena Metro Blue Line Construction Authority for an order authorizing the construction of two light rail transit tracks at-grade crossing West Avenue 45 in the City of Los Angeles, County of Los Angeles.

Application 00-10-012

And Related Matters.

Application 00-11-050  
Application 00-11-040  
Application 00-11-034  
Application 00-11-033  
Application 00-11-032  
Application 00-11-029  
Application 00-11-016  
Application 00-11-015  
Application 00-10-050  
Application 00-10-039  
Application 00-10-033  
Application 00-10-020

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER  
GRANTING ADDITIONAL PUBLIC PARTICIPATION HEARINGS, AND  
RULING ON CONSOLIDATION AND DECONSOLIDATION**

A Prehearing Conference (PHC) was held on Los Angeles in this consolidated matter before Administrative Law Judge (ALJ) Sheldon Rosenthal. Appearances were made on behalf of Los Angeles to Pasadena Metro Blue Line Construction Authority (Applicant), NO BLAGG, Mount Washington Association, The City of Los Angeles, the City of South Pasadena, The City of

Pasadena, the Los Angeles City Metropolitan Transit Authority, the Los Angeles County Metropolitan Transit Authority, Ms. Jo Anne Barker, and the Commission Staff. Also in attendance were over fifty members of the public, mostly residents of Mount Washington neighborhood.

The presence of a large number of the public was not anticipated. The ALJ determined that it was appropriate to allow those present to present their views, after explaining that the actual decision would be determined by formal evidence to be provided at subsequent hearings. Seventeen people availed themselves of the opportunity and spoke against a proposed crossing at grade at 45th Ave. None of these speakers opposed construction of the project, but only the at-grade crossing. Since we were not forewarned of their attendance, one member of the audience graciously agreed to act as interpreter for those speakers and members of the audience who were more comfortable with Spanish. In addition to the oral presentations the ALJ was presented with several petitions signed by members of the community urging that 45th Ave be grade separated.

One person, representing the Train Riders Association of California and the Los Angeles Chapter of the Sierra Club, spoke in favor of the project and the at-grade crossings. He was not a resident of the area near the proposed train traffic.

Representatives of NO BLAG and Applicant asked that they be permitted an opportunity to have a Public Participation Hearing to show that the public supports their positions. This request is granted. Public participation hearings will be held at the Commission Courtroom on Monday, November 5, 2001, starting at 10:00 A.M.

### **The Prehearing Conference**

The Formal PHC began at 1:00 P.M. Each of the parties was permitted to state his or her position on the application and what that party believed to be the factual and legal issues. NO BLAG protests the at-grade crossings planned for Del Mar and California Boulevards and Fillmore and Glenarm Streets. NO BLAG asks that these crossings be separated. It identified its issues as the public safety of these crossings, the traffic flow, the new and planned development in the area of the crossings, the noise problems associated with at-grade crossings, and various environmental problems.

Mount Washington Association asks that the 45th Ave. proposed at-grade crossing be separated. It identified its issues as the practicability of an at-grade crossing at 45th Ave., safety concerns about that crossing, traffic flow as affected by an at-grade crossing, and the noise that would result from train operations if the crossing were at-grade.

Barker protests all of the crossings, indicating that the applications does not match up with the Environmental Impact Report (EIR) and supplements approved for the project. She also indicated that this was merely the first part of a much larger project and that piecemealing the applications should not be permitted.

Staff protests all of the crossings, though it said that it was negotiating with Applicant and it may withdraw its protests to some or all of the crossings if its objections are met.

Applicant notes that a part of the project has already been approved by the Commission. In this regard it refers to Decision (D.) 00-12-007 wherein the Commission authorized the construction of seven separated crossings in the Chinatown area closest to Union Station.

All other appearances supported the applications as amended.

## **Issues**

The issues to be considered at the evidentiary hearings will be as follows:

1. The practicability of all of the at-grade crossings.
2. Whether the applications demonstrate compliance with the California Environmental Quality Act.
3. Whether there is truly a funding problem with regard to the non-separated crossing proposals.
4. Whether noise problems associated with train whistles and gate warning devices require either grade separations or some other means of safety.
5. The effect of at-grade crossings on local traffic and emergency vehicles.

## **Consolidation**

At the PHC Applicant argued its motion to deconsolidate the applications joined by the ALJ's Ruling of February 21, 2001. Applicant particularly wished to be allowed to begin preparation and construction for those crossings that were to be separated. It claimed that separation is the ultimate safety measure, and that no parties other than Barker and Staff had protested the crossings it proposed to separate. Applicant is anxious to complete the project as quickly as possible to provide light-rail service along its proposed route. Barker, Staff, NO BLAG, and Mount Washington Association opposed this motion. They assert that this would place Applicant in position to point to its investment in constructing the separated crossings and argue this public investment should not be imperiled if it could not finance further separations.

We have considered the arguments of the parties and have decided that a partial deconsolidation is appropriate. Two of the applications currently consolidated in this proceeding have no proposed at-grade crossings. (Application (A.) 00-10-033 and A.00-10-050.) By this order these applications are

deconsolidated from the joint proceeding. The ALJ is instructed to prepare an order granting these applications. He is further directed to include in that order a provision that Applicant accepts the authority granted at its own risk. Applicant is to be fully warned that this Commissioner will not be swayed by any claims of harm to itself, the state, or the public if the remainder of the applications are denied or conditioned in such manner as to cause major expenditures by Applicant.

**A.01-06-011**

Also before the ALJ was a motion of the Staff to consolidate A.01-06-011 with the present proceeding. This is a proposed at-grade crossing. Applicant opposed staff's motion. Since all of the issues associated with the at-grade crossings in the consolidated proceeding are equally applicable to this application it will be consolidated.

**A.00-11-015**

At the PHC Applicant announced that two crossings in this application, Magnolia Street and Fairview Avenue, would not be constructed. As a result of a resolution of the City of South Pasadena the streets will be closed and cul-de-sacs created. A.00-11-015 will be amended to delete requests for at-grade crossings on these streets.

**Schedule of Proceedings**

Following a lengthy discussion the parties agreed that evidentiary hearings could begin on November 5, 2001 at the Commission Courtrooms in Los Angeles. The parties further agreed that prepared testimony would be distributed in accordance with Rule 68 of the Commission's Rules of Practice and Procedure. Should any of the parties have questions concerning the form of this testimony they may contact the ALJ.

NO BLAG indicated that it has already sought certain information from Applicant. Other parties may similarly wish information. The ALJ indicated that he would prefer use of informal data requests, as contemplated by Rule 59.1. He further indicated that should there be difficulties encountered in informally obtaining information the schedule contemplated by this Ruling might be adversely affected.

The following schedule is announced for the joint proceeding:

Prepared testimony and exhibits mailed	October 26, 2001
Public participation hearings, followed by evidentiary hearings	November 5, 2001
Evidentiary hearings completed	November 9, 2001
Concurrent briefs	November 30, 2001
Concurrent reply briefs and submission	December 14, 2001
ALJ proposed decision, Pub. Util. Code § 311(d)	March 14, 2002
Commission decision, Pub. Util. Code § 1701.3(e)	May 13, 2002

The schedule shown above may be altered by delays caused by parties or evidentiary hearings lasting longer than estimated. Applicant is reminded that it bears the burden of proving non-practicability of grade separations. Applicant is further reminded that its showing should include the anticipated frequency of train, vehicle and pedestrian traffic over the proposed crossings.

**IT IS RULED** that:

1. The ALJ is designated as the principal hearing officer.
2. Application (A.) 00-10-033 and A.00-10-050 are deconsolidated from this proceeding.
3. A.01-06-011 is consolidated into this proceeding.
4. The ALJ is directed to prepare a decision in A.00-10-033 and A.00-10-050 in accordance with the provisions of this Ruling.
5. The issues outlined in this Ruling are the issues to be addressed in this proceeding.
6. The schedule outlined in this Ruling is the schedule to be followed in this proceeding.

Dated September 28, 2001, at San Francisco, California.

/s/ RICHARD A. BILAS

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Richard A. Bilas  
Assigned Commissioner

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Scoping Memo And Ruling Granting Additional Public Participation Hearings, and Ruling on Consolidation and Deconsolidation on all parties of record in this proceeding or their attorneys of record.

Dated September 28, 2001, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.